

**Contingency Planning for Major Disasters: Policy-Making
to Enhance the Delivery of Legal Services to Our Clients**

2007 Equal Justice Conference
Denver, Colorado
Friday, March 23, 2007
Agate Room, Hyatt Regency at the Convention Center

This workshop will discuss how the legal profession can prepare to respond to significant disasters, from the national level to the individual program, including policies, practices and procedures to facilitate the delivery of legal services to persons and organizations affected by such disasters by legal services and pro bono providers.

The Panel

Moderator: Anthony H. Barash
ABA Center for Pro Bono
Chicago, Illinois

Tony Barash is the Director of the American Bar Association Center for Pro Bono. After 35 years in private practice and as a corporate general counsel, Barash spent 15 months as an ABA/CEELI judicial reform volunteer in Uzbekistan and was Scholar-in-Residence at Furman University's Richard W. Riley Institute of Government, Politics and Public Leadership prior to joining the Center in 2005. While practicing in California, he served on the Boards and as President of the Beverly Hills Bar Association, the Beverly Hills Bar Foundation and Public Counsel, one of the nation's largest and best urban pro bono programs. He is a graduate of Harvard College and the University of Chicago Law School.

Presenters:

John C. Eidleman
Legal Services Corporation
Washington, DC

John Eidleman is Senior Program Counsel, Office of Program Performance, Legal Services Corporation. Since September 2005, Eidleman has been the LSC point person on disaster related issues, including working with the ABA, NLADA and others to develop the web site *Katrinalegalaid.org*. He is now focusing on disaster planning to prepare for future disasters. Before joining LSC in 1995, Eidleman was for 25 years a legal aid attorney in Maryland, capping his legal aid career as Chief Attorney, Baltimore County Office, Legal Aid Bureau, Towson, Maryland, from 1980 to April 1995. He was the Pro Bono Honoree of the Pro Bono Resource Center of Maryland at its 15th Anniversary Gala in 2005, the recipient of the Maryland Legal Services Corporation 2005 Distinguished Service Award and the winner of the Maryland State Bar Association's 1982-83 President's Award for service as Chair of the Special Committee on Lawyer Referral. Eidleman is a graduate of Pennsylvania State University and University of Maryland School of Law.

Karen A. Lash
Equal Justice Works/Mississippi Center for Justice
Washington, DC/Jackson, Mississippi

Karen Lash is Senior Program Counsel for Equal Justice Works and a private consultant for law schools and nonprofits. Thanks to a generous contribution from the ABA Section for Business Law, she is currently working half-time for the Mississippi Center for Justice coordinating pro bono efforts and enhancing the state's legal services delivery system. Prior to serving as Vice President of Programs and a board member of Equal Justice Works, she was Associate Dean at USC Law School, Director of Public Counsel's Child Care Law Project, associate at Tuttle & Taylor, and clerk to U.S. Ninth Circuit Court of Appeals Judge Warren J. Ferguson. Lash has served as co-chair of the California Access to Justice Commission and on numerous committees dedicated to expanding legal services. As an ABA/CEELI and Asia Law Initiative legal specialist, she helped establish law school legal clinics in Moldova, Ukraine, Slovakia and Cambodia. Lash is a graduate of UCLA and University of Southern California Law School.

Craig D. Cannon
Womble Carlyle Sandridge & Rice
Winston-Salem, North Carolina

Craig Cannon is a litigation attorney with the law firm of Womble Carlyle Sandridge & Rice in its Winston-Salem, North Carolina office. He received his B.A. and J.D. degrees from the University of Iowa. Cannon currently serves as the National Coordinator of the Disaster Legal Services program for the ABA. The DLS program operates pursuant to a Memorandum of Understanding between the ABA and the Federal Emergency Management Agency. Prior to serving as the National Coordinator of the DLS program, Cannon served as the Vice-Coordinator of the program and as the chair of the North Carolina Bar Association's DLS Committee. Cannon is also a liaison member of the ABA's Special Committee on Disaster Response and Preparedness. Since becoming involved with the DLS program, Cannon has personally provided pro bono legal assistance to hundreds of disaster victims and supervised the delivery of pro bono legal assistance to thousands of disaster victims. During the summer of 2006, dozens of attorneys from Cannon's firm traveled to New Orleans to provide on-site pro bono legal assistance to Hurricane Katrina victims. The NCBA recently named Cannon the 2005-2006 recipient of the Charles F. Blanchard Outstanding Young Lawyer Award for his efforts in providing pro bono legal assistance to disaster victims.

The Program

The National Perspective -

John C. Idleman

What national legal organizations and the profession can and should be doing to plan, and to assist state and local legal services and pro bono providers to prepare for, the next major disaster, with the Legal Services Corporation as an example.

1. Provide guidance to local providers on how to or “best practices” in preparing an emergency/disaster plan that addresses preparation for the emergency, action during the emergency and action after the emergency. The guidance will address the office, program and community levels.
2. Engage in planning with national organizations such as FEMA, the ABA Young Lawyers Division and the Red Cross so that all organizations are knowledgeable of what each does and promotes cooperation at the national and local level so that there is coordination to provide legal services when a disaster occurs. Promote cooperation and access to all legal services available in the area where the disaster occurs.
3. Engage with national legal organizations and private law firms to make available a repository of helpful information that can be easily accessed electronically and in hard copy by those needing and providing legal help in a disaster.
4. Work with national organizations to have a plan in place to provide technical, practical and technology help to legal provider organizations if needed after a disaster. This would include having volunteers who could go to the site of the disaster, technology experts who could help reconstruct technology and organizations that could provide technology equipment if needed.

The State and Local Perspective: Lessons Learned from Mississippi –

Karen A. Lash

How to organize, motivate and sustain the delivery of legal services to underserved populations in the immediate aftermath and over the longer term.

1. Establish a coordinated, integrated and accessible intake portal for survivors needing legal assistance.
 - Publicize centralized 1-800 number for those with phone service and locations for in-person consultations.
 - Back-up technology if possible – electricity, phones and internet access may be unavailable or intermittently available.
 - Determine point person from each office to insure coordination – among legal services, bar, pro bono and other partner organizations.
 - Coordinate between YLD intake, and legal aid and pro bono programs to ensure all issues addressed and referrals for representation can be made.
 - Prepare a disaster relief legal training manual – before it's needed.
2. Go to where the clients are.
 - Identify the trusted sources in low-income neighborhoods – e.g., churches, community centers.
 - Identify the trusted nonprofits, community and faith-based organizations, and other disaster-relief entities to help distribute information about where and when to get legal aid.
3. Eradicate state laws, policies and regulations that interfere with services generally, and especially those that harm low- and moderate-income people.
 - Use experience in disaster states to lobby in your state to strengthen housing and consumer protection laws (e.g., do price-gouging protections apply to rents? Do eviction protections work in a disaster setting? If there are no provisions for rent escrow account pending repairs to make a home habitable, lobby now).
 - Lobby for special provisions to protect people after a disaster (e.g., Mississippi gives authority to the governor to impose a moratorium on mortgage foreclosures, can a stay on evictions be ordered?).
 - Build relationships essential to legislative advocacy now.

4. Fully exploit pro bono resources -- engage national advocacy groups, the private bar and law schools in disaster recovery legal efforts.
 - Develop a pro bono plan before disaster strikes – how will you say “yes” to the national outpouring of offers to help?
 - Identify the organization that will take the lead in recruiting and training private attorneys – we can predict the key issues in the immediate aftermath, and further away from the disaster (e.g., evictions, predatory lending, price-gouging, FEMA appeals, insurance disputes).
 - Think beyond traditional representation and brief counsel and advice to other creative uses of private firm resources (e.g., draft sections of disaster manuals, donate replacement furniture and equipment, IT help, incorporating new nonprofits, research on legislative options, trainings on using tax credits, assistance with affordable housing development strategies).
 - Tap into law school clinics and recruit law students.
 - Have a pro hac vice order ready to submit to the Supreme Court allowing out-of-state lawyers to provide pro bono assistance to disaster victims.
 - Add staff to facilitate pro bono efforts.
 - Use the national advocacy organizations to help with training, community education, and strategy advice.

5. Tell the story about how law and lawyers can heal broken lives – message and media.
 - Lawyers are essential to the recovery effort – this isn’t obvious, even to many in the profession (e.g., the majority of lawyer and law firm donations went to Red Cross and the Salvation Army, tapping out much of the philanthropy with little left over for legal services and pro bono programs).
 - Beyond the disaster zone there will be misinformation about what is happening, develop relationships with journalists, collect and tell your clients’ stories.
 - Use videos, websites, press releases (and if your nonprofit website doesn’t yet have a “donate online” button, fix that now).

Triage. Understanding the role of the FEMA disaster legal assistance program –

Craig D. Cannon

What it can and can't be expected to do, how it can coordinate with established programs and organizations to provide a legal support system for eligible clients, and how it might reasonably be improved to incorporate lessons learned from recent experiences (not just the Gulf Coast storms).

1. Memorandum of Understanding between FEMA and ABA/YLD. This creates the Disaster Legal Assistance program offered by FEMA.

- What it is - an agreement between FEMA and the ABA/YLD that requires the ABA/YLD to provide pro bono disaster related legal services to low-income victims of a federally-declared disaster when asked to do so by FEMA.
- When it applies - when FEMA requests such services, not all federally-declared disasters result in the implementation of disaster legal services.
- Who participates - anyone licensed to practice law in the particular state that is affected.
- Who is assisted - low-income individuals with disaster related issues.
- Where it is located- toll-free hotline located in the affected state, disaster recovery centers, and attorney's offices.

2. Lessons learned.

- Have a plan in place. Easier to modify a plan during a disaster than to create a plan from scratch. Recognize that the scope of disasters vary widely from a few victims needing legal assistance to tens of thousands of victims needing assistance. Plan should take this into account. Also, keep in mind that attorneys and the bar most likely will be affected and take that into account.
- Training, Training, Training. Provide training in advance. Create a disaster manual which gives guidance on how the response will be handled and has state specific answers to commonly asked legal questions.
- Determine what scope of assistance. Will legal assistance be given to all or only low income. Will all types of cases be handled or only specific types?
- In advance of a disaster, reach out to local legal aid providers, disaster responders, Red Cross, etc. to determine how the entities can work together. No one entity can be expected to do it all.
- When disseminating information use all media outlets, radio, TV, and newspaper. Especially with respect to any voicemail message, but also with respect to the media outlets where possible, all materials should be in English and Spanish, or whatever language is specific to the locale. National bar organizations are great sources to assist with translations.